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1 A bill to be entitled

2 An act relating to tests for alcohol, chemical substances,  
3 or controlled substances; amending ss. 316.1932 and  
4 327.352, F.S.; revising language that provides for tests  
5 to determine blood alcohol content or the presence of  
6 chemical or controlled substances; providing an effective  
7 date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. The catchline and paragraph (a) of subsection  
12 (1) of section 316.1932, Florida Statutes, are amended to read:

13 316.1932 ~~Breath, blood, and urine~~ Tests for alcohol,  
14 chemical substances, or controlled substances; implied consent;  
15 refusal.--

16 (1)(a)1.a. Any person who accepts the privilege extended  
17 by the laws of this state of operating a motor vehicle within  
18 this state is, by so operating such vehicle, deemed to have  
19 given his or her consent to submit to an approved chemical test  
20 or physical test including, but not limited to, an infrared  
21 light test of his or her breath for the purpose of determining  
22 the alcoholic content of his or her blood or breath, ~~and to a~~  
23 ~~urine test for the purpose of detecting the presence of chemical~~  
24 ~~substances as set forth in s. 877.111 or controlled substances,~~  
25 if the person is lawfully arrested for any offense allegedly  
26 committed while the person was driving or was in actual physical  
27 control of a motor vehicle while under the influence of  
28 alcoholic beverages, ~~chemical substances, or controlled~~  
29 ~~substances.~~ The chemical or physical breath test must be  
30 incidental to a lawful arrest and administered at the request of



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31 a law enforcement officer who has reasonable cause to believe  
32 such person was driving or was in actual physical control of the  
33 motor vehicle within this state while under the influence of  
34 alcoholic beverages. ~~The urine test must be incidental to a~~  
35 ~~lawful arrest and administered at a detention facility or any~~  
36 ~~other facility, mobile or otherwise, which is equipped to~~  
37 ~~administer such tests at the request of a law enforcement~~  
38 ~~officer who has reasonable cause to believe such person was~~  
39 ~~driving or was in actual physical control of a motor vehicle~~  
40 ~~within this state while under the influence of controlled~~  
41 ~~substances. The urine test shall be administered at a detention~~  
42 ~~facility or any other facility, mobile or otherwise, which is~~  
43 ~~equipped to administer such tests in a reasonable manner that~~  
44 ~~will ensure the accuracy of the specimen and maintain the~~  
45 ~~privacy of the individual involved.~~ The administration of a  
46 breath ~~one type of~~ test does not preclude the administration of  
47 another type of test. The person shall be told that his or her  
48 failure to submit to any lawful test of his or her breath ~~or~~  
49 ~~urine, or both,~~ will result in the suspension of the person's  
50 privilege to operate a motor vehicle for a period of 1 year for  
51 a first refusal, or for a period of 18 months if the driving  
52 privilege of such person has been previously suspended as a  
53 result of a refusal to submit to such a test or tests, and shall  
54 also be told that if he or she refuses to submit to a lawful  
55 test of his or her breath ~~or urine, or both,~~ and his or her  
56 driving privilege has been previously suspended for a prior  
57 refusal to submit to a lawful test of his or her breath, urine,  
58 or blood, he or she commits a misdemeanor in addition to any  
59 other penalties. The refusal to submit to a chemical or physical  
60 breath test ~~or to a urine test~~ upon the request of a law



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61 enforcement officer as provided in this section is admissible  
62 into evidence in any criminal proceeding.

63 b. Any person who accepts the privilege extended by the  
64 laws of this state of operating a motor vehicle within this  
65 state is, by so operating such vehicle, deemed to have given his  
66 or her consent to submit to a urine test for the purpose of  
67 detecting the presence of chemical substances as set forth in s.  
68 877.111 or controlled substances if the person is lawfully  
69 arrested for any offense allegedly committed while the person  
70 was driving or was in actual physical control of a motor vehicle  
71 while under the influence of chemical substances or controlled  
72 substances. The urine test must be incidental to a lawful arrest  
73 and administered at a detention facility or any other facility,  
74 mobile or otherwise, which is equipped to administer such tests  
75 at the request of a law enforcement officer who has reasonable  
76 cause to believe such person was driving or was in actual  
77 physical control of a motor vehicle within this state while  
78 under the influence of chemical substances or controlled  
79 substances. The urine test shall be administered at a detention  
80 facility or any other facility, mobile or otherwise, which is  
81 equipped to administer such test in a reasonable manner that  
82 will ensure the accuracy of the specimen and maintain the  
83 privacy of the individual involved. The administration of a  
84 urine test does not preclude the administration of another type  
85 of test. The person shall be told that his or her failure to  
86 submit to any lawful test of his or her urine will result in the  
87 suspension of the person's privilege to operate a motor vehicle  
88 for a period of 1 year for the first refusal, or for a period of  
89 18 months if the driving privilege of such person has been  
90 previously suspended as a result of a refusal to submit to such



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91 a test or tests, and shall also be told that if he or she  
92 refuses to submit to a lawful test of his or her urine and his  
93 or her driving privilege has been previously suspended for a  
94 prior refusal to submit to a lawful test of his or her breath,  
95 urine, or blood, he or she commits a misdemeanor in addition to  
96 any other penalties. The refusal to submit to a urine test upon  
97 the request of a law enforcement officer as provided in this  
98 section is admissible into evidence in any criminal proceeding.

99       2. The Alcohol Testing Program within the Department of  
100 Law Enforcement is responsible for the regulation of the  
101 operation, inspection, and registration of breath test  
102 instruments utilized under the driving and boating under the  
103 influence provisions and related provisions located in this  
104 chapter and chapters 322 and 327. The program is responsible for  
105 the regulation of the individuals who operate, inspect, and  
106 instruct on the breath test instruments utilized in the driving  
107 and boating under the influence provisions and related  
108 provisions located in this chapter and chapters 322 and 327. The  
109 program is further responsible for the regulation of blood  
110 analysts who conduct blood testing to be utilized under the  
111 driving and boating under the influence provisions and related  
112 provisions located in this chapter and chapters 322 and 327. The  
113 program shall:

114       a. Establish uniform criteria for the issuance of permits  
115 to breath test operators, agency inspectors, instructors, blood  
116 analysts, and instruments.

117       b. Have the authority to permit breath test operators,  
118 agency inspectors, instructors, blood analysts, and instruments.



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119 c. Have the authority to discipline and suspend, revoke,  
120 or renew the permits of breath test operators, agency  
121 inspectors, instructors, blood analysts, and instruments.

122 d. Establish uniform requirements for instruction and  
123 curricula for the operation and inspection of approved  
124 instruments.

125 e. Have the authority to specify one approved curriculum  
126 for the operation and inspection of approved instruments.

127 f. Establish a procedure for the approval of breath test  
128 operator and agency inspector classes.

129 g. Have the authority to approve or disapprove breath test  
130 instruments and accompanying paraphernalia for use pursuant to  
131 the driving and boating under the influence provisions and  
132 related provisions located in this chapter and chapters 322 and  
133 327.

134 h. With the approval of the executive director of the  
135 Department of Law Enforcement, make and enter into contracts and  
136 agreements with other agencies, organizations, associations,  
137 corporations, individuals, or federal agencies as are necessary,  
138 expedient, or incidental to the performance of duties.

139 i. Issue final orders which include findings of fact and  
140 conclusions of law and which constitute final agency action for  
141 the purpose of chapter 120.

142 j. Enforce compliance with the provisions of this section  
143 through civil or administrative proceedings.

144 k. Make recommendations concerning any matter within the  
145 purview of this section, this chapter, chapter 322, or chapter  
146 327.

147 l. Promulgate rules for the administration and  
148 implementation of this section, including definitions of terms.



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149 m. Consult and cooperate with other entities for the  
150 purpose of implementing the mandates of this section.

151 n. Have the authority to approve the type of blood test  
152 utilized under the driving and boating under the influence  
153 provisions and related provisions located in this chapter and  
154 chapters 322 and 327.

155 o. Have the authority to specify techniques and methods  
156 for breath alcohol testing and blood testing utilized under the  
157 driving and boating under the influence provisions and related  
158 provisions located in this chapter and chapters 322 and 327.

159 p. Have the authority to approve repair facilities for the  
160 approved breath test instruments, including the authority to set  
161 criteria for approval.

162

163 Nothing in this section shall be construed to supersede  
164 provisions in this chapter and chapters 322 and 327. The  
165 specifications in this section are derived from the power and  
166 authority previously and currently possessed by the Department  
167 of Law Enforcement and are enumerated to conform with the  
168 mandates of chapter 99-379, Laws of Florida.

169 Section 2. The catchline and paragraph (a) of subsection  
170 (1) of section 327.352, Florida Statutes, are amended to read:

171 327.352 ~~Breath, blood, and urine~~ Tests for alcohol,  
172 chemical substances, or controlled substances; implied consent;  
173 refusal.--

174 (1)(a)1. The Legislature declares that the operation of a  
175 vessel is a privilege that must be exercised in a reasonable  
176 manner. In order to protect the public health and safety, it is  
177 essential that a lawful and effective means of reducing the  
178 incidence of boating while impaired or intoxicated be



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179 established. Therefore, any person who accepts the privilege  
180 extended by the laws of this state of operating a vessel within  
181 this state is, by so operating such vessel, deemed to have given  
182 his or her consent to submit to an approved chemical test or  
183 physical test including, but not limited to, an infrared light  
184 test of his or her breath for the purpose of determining the  
185 alcoholic content of his or her blood or breath, ~~and to a urine~~  
186 ~~test for the purpose of detecting the presence of chemical~~  
187 ~~substances as set forth in s. 877.111 or controlled substances,~~  
188 if the person is lawfully arrested for any offense allegedly  
189 committed while the person was operating a vessel while under  
190 the influence of alcoholic beverages, ~~chemical substances, or~~  
191 ~~controlled substances.~~ The chemical or physical breath test must  
192 be incidental to a lawful arrest and administered at the request  
193 of a law enforcement officer who has reasonable cause to believe  
194 such person was operating the vessel within this state while  
195 under the influence of alcoholic beverages. ~~The urine test must~~  
196 ~~be incidental to a lawful arrest and administered at a detention~~  
197 ~~facility or any other facility, mobile or otherwise, which is~~  
198 ~~equipped to administer such tests at the request of a law~~  
199 ~~enforcement officer who has reasonable cause to believe such~~  
200 ~~person was operating a vessel within this state while under the~~  
201 ~~influence of controlled substances. The urine test shall be~~  
202 ~~administered at a detention facility or any other facility,~~  
203 ~~mobile or otherwise, which is equipped to administer such tests~~  
204 ~~in a reasonable manner that will ensure the accuracy of the~~  
205 ~~specimen and maintain the privacy of the individual involved.~~  
206 The administration of a breath ~~one type of~~ test does not  
207 preclude the administration of another type of test. The person  
208 shall be told that his or her failure to submit to any lawful



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209 test of his or her breath ~~or urine, or both~~, will result in a  
210 civil penalty of \$500, and shall also be told that if he or she  
211 refuses to submit to a lawful test of his or her breath ~~or~~  
212 ~~urine, or both~~, and he or she has been previously fined for  
213 refusal to submit to any lawful test of his or her breath,  
214 urine, or blood, he or she commits a misdemeanor in addition to  
215 any other penalties. The refusal to submit to a chemical or  
216 physical breath ~~or urine~~ test upon the request of a law  
217 enforcement officer as provided in this section is admissible  
218 into evidence in any criminal proceeding.

219 2. Any person who accepts the privilege extended by the  
220 laws of this state of operating a vessel within this state is,  
221 by so operating such vessel, deemed to have given his or her  
222 consent to submit to a urine test for the purpose of detecting  
223 the presence of chemical substances as set forth in s. 877.111  
224 or controlled substances if the person is lawfully arrested for  
225 any offense allegedly committed while the person was operating a  
226 vessel while under the influence of chemical substances or  
227 controlled substances. The urine test must be incidental to a  
228 lawful arrest and administered at a detention facility or any  
229 other facility, mobile or otherwise, which is equipped to  
230 administer such tests at the request of a law enforcement  
231 officer who has reasonable cause to believe such person was  
232 operating a vessel within this state while under the influence  
233 of chemical substances or controlled substances. The urine test  
234 shall be administered at a detention facility or any other  
235 facility, mobile or otherwise, which is equipped to administer  
236 such test in a reasonable manner that will ensure the accuracy  
237 of the specimen and maintain the privacy of the individual  
238 involved. The administration of a urine test does not preclude





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239 the administration of another type of test. The person shall be  
240 told that his or her failure to submit to any lawful test of his  
241 or her urine will result in a civil penalty of \$500, and shall  
242 also be told that if he or she refuses to submit to a lawful  
243 test of his or her urine and he or she has been previously fined  
244 for refusal to submit to any lawful test of his or her breath,  
245 urine, or blood, he or she commits a misdemeanor in addition to  
246 any other penalties. The refusal to submit to a urine test upon  
247 the request of a law enforcement officer as provided in this  
248 section is admissible into evidence in any criminal proceeding.

249 Section 3. This act shall take effect upon becoming a law.